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10/700,808	11/04/2003	Robert T. Bigelow	BA-U-COV-00010	4771
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/700,808
Filing Date: November 04, 2003
Appellant(s): BIGELOW, ROBERT T.

Franklin E. Gibbs
For Appellant

Supplemental EXAMINER'S ANSWER

This is a supplemental examiner's answer in response to the Remand from Board of Appeal on
9/29/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

A substantially correct copy of appealed claim 2 appears on page 38 of the Appendix to the appellant's brief. The minor errors are as follows:

Line 5 " exterior disposed", should have been " exterior surface disposed"

lines 5-6 " surface and surface" should have been " surface and "

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 6-11, 13-18, 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Moon et al (6892497).

Moon (figures 2, 14) shows a cover comprising a first segment (404) having a longitudinal axis, an interior surface and having an arcuate exterior surface disposed generally opposite the interior surface and perpendicular to the length of the axis, the arcuate exterior surface of the first segment of at least one substantially sheet like and substantially rigid structure, having at least one affixing member (the structure where part 440 goes into, figure 17), a second segment (406, figures 14-16) having a substantially flat surface, a plurality of ribs disposed between and joined to the inner surface of the first segment and the substantially flat surface of the second segment, a plurality of attachment elements (416) disposed on the ribs, the second segment is substantially rigid, the cover is substantially hollow, the first segment having an access opening, the second segment having an access opening.

With respect to the limitations to the core and the method of usage thereof, the elected invention is to the cover only and the limitations to the cover are also fully met by the reference above, and the reference is able to function as claimed.

(10) Response to Argument

With respect to claim 25, examiner respectfully points out that the claim is a linking claim. The claim is withdrawn as part of the original restriction of 3/21/06. The claim 25 is allowed only if elected invention of claims 1-4, 6-11, 13-18, 20-21 is allowed. Furthermore, applicant on 10/25/2007 and 2/07/2008 has labeled the claim as withdrawn. The claim 25 is thus treated as withdrawn claim unless at least claim 2 is allowed since claim 25 depends on claim 2.

In response to applicant's argument that Moon (6892497) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the argument is not persuasive as the rejection is a 102 rejection

Moon shows a cover. The cover is clearly shown in figures 2, 14, 16. The cover shows a first segment (404), affixing member (the structure where part 440 goes into, figure 17), a second segment (406, figures 14-16), and a plurality of ribs (430, 432, 434) disposed between and joined to the inner surface of the first segment and the substantial flat surface of the second segment, attachment elements (416) disposed on the ribs (see figures 14-15).

As shown in figures 2, 14-15, attachment elements (416) is attached to ribs (430, 432) as claimed. There is nothing structural different between applicant's claimed ribs and the ribs of Moon.

With respect to “at least one affixing member” per cover, the reference in figures 14 and 16, 17 clearly shows the claimed “at least one affixing member”. The part 440 is held in place by the affixing members (the structure which supports and holds in place the part 440). Each cover has its own supporting structures (affixing member) that supports the attachment of part 440 thereto. The claimed limitation is thus met.

With respect to “substantially rigid”, the reference discloses the first segment being made of injection molded plastic such as polypropylene. The first segment's rigidity is enhanced by ribs and gussets. The enclosure is a heavy duty enclosure and the ribs/gussets are injection molded at the same time with the first segment to form a rigid structure. The first segment is thus substantially rigid as claimed.

With respect to the “substantially flat” second segment, the reference shows the second segment being substantially flat. Figure 26 shows the second segment being substantially flat.

With respect to “With respect to the limitations to the core and the method of usage thereof....able to function as claimed”, examiner merely tries to point out that the claims are to the cover only, and the reference shows all the claimed structural limitations and able to function accordingly.

The claims are examined accordingly to scope and given the broadest reasonable interpretation consistent with the specification.

With respect to claim 2, the claim is also properly rejected as set forth above.

With respect to claim 3, as clearly set forth in the prosecution history, the claims are to a cover only. Applicant is not trying to claim the core in combination with the cover in claim 3. The claim is thus properly rejected.

With respect to claim 4, the claim is also properly rejected as set forth above.

With respect to claims 6-8, the reference shows a cover having first and second segment spaced apart by ribs. The cover is substantially hollow as claimed. The reference also shows the cover having openings leading into the hollow cover. The reference thus shows an access opening for a first segment as claimed.

With respect to claim 9, the reference shows the claimed attachment elements on ribs. The attachment elements are able to function as claimed.

With respect to claim 10, as clearly set forth in the prosecution history, the claims are to a cover only. Applicant is not trying to claim the core in combination with the cover in claim 10. The claim is thus properly rejected.

With respect to claim 11, the reference shows the second segment being substantially rigid as explained above to the first segment.

With respect to claim 13, the reference shows a cover having first and second segment spaced apart by ribs. The cover is substantially hollow as claimed.

With respect to claim 14, as clearly set forth in the prosecution history, the claims are to a cover only. Applicant is not trying to claim the core in combination with the cover in claim 14. The claim 14 is also properly rejected as claims 1-2

With respect to claim 15, as clearly set forth in the prosecution history, the claims are to a cover only. Applicant is not trying to claim the core in combination with the cover in claim 15. The claim is thus properly rejected.

With respect to claim 16, the reference shows the second segment being substantially rigid as explained above to the first segment.

With respect to claim 17-18, the reference shows a cover having first and second segment spaced apart by ribs. The cover is substantially hollow as claimed. The reference also shows the cover having openings leading into the hollow cover. The reference thus shows an access opening for a first and second segment as claimed.

With respect to claim 20, the reference shows a cover having first and second segment spaced apart by ribs. The cover is substantially hollow as claimed.

With respect to claim 21, the claim essentially claims the same limitations as the other independent claims and the limitations are met by the reference. The claim is thus grouped and rejected by the same reference.

With respect to claim 25, the claim was withdrawn by applicant and is only allowable if its independent claim 2 is allowable. Since claim 2 is rejected, the claim 25 is still a withdrawn.

The arguments are thus not persuasive.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Phi D. A/

Phi Dieu Tran A

10/7/2009

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